



Senate

General Assembly

File No. 252

January Session, 2009

Substitute Senate Bill No. 957

Senate, March 26, 2009

The Committee on Human Services reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE ELIGIBILITY OF PERSONS LIVING IN
RESIDENTIAL CARE HOMES FOR STATE SUPPLEMENT
ASSISTANCE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-600 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 The Commissioner of Social Services shall administer a program of
4 optional state supplementation as provided for by Title XVI of the
5 Social Security Act, as amended, and shall administer the program in
6 accordance with the requirements provided therein. In accordance
7 with the requirements of Title XVI of said Social Security Act, optional
8 state supplementation may be provided to aged, blind and disabled
9 individuals who receive supplemental security income benefits or who
10 would be eligible to receive such benefits except for income, provided
11 that any applicant or recipient of optional state supplementation shall
12 be ineligible for such supplementary assistance if such person has
13 made, within twenty-four months prior to the date of application for

14 such aid, an assignment or transfer or other disposition of property for
15 less than fair market value, for the purpose of establishing eligibility
16 for benefits or assistance under this section, provided ineligibility
17 because of such disposition shall continue only for either (1) twenty-
18 four months after the date of disposition, or (2) that period of time
19 from date of disposition over which the fair market value of such
20 property, less any consideration received in exchange for its
21 disposition, together with all other income and resources, would
22 furnish support on a reasonable standard of health and decency,
23 whichever period is shorter, except that in any case where the
24 uncompensated value of disposed of resources exceeds twelve
25 thousand dollars, the Commissioner of Social Services shall provide for
26 a period of ineligibility based on the uncompensated value which
27 exceeds twenty-four months. Any disposition shall be presumed to
28 have been made for the purpose of establishing eligibility for benefits
29 or assistance unless the individual furnishes convincing evidence to
30 establish that the transaction was exclusively for some other purpose
31 or the disposition was made to a trust that complies with Section
32 1917(d)(4) of the Social Security Act, 42 USC 1396p(d)(4), as from time
33 to time amended, and (A) the individual resides in a residential care
34 home, as defined in subdivision (17) of subsection (a) of section 19-13-
35 D6 of the regulations of Connecticut state agencies or resides in the
36 facility established by New Horizons, Inc. pursuant to section 19a-507;
37 (B) the individual's available income, as defined in section 5000.01 of
38 the department's uniform policy manual (i) exceeds three hundred per
39 cent of the maximum Supplemental Security Income program benefit
40 for an individual, and (ii) is below the private rate for the residential
41 care home in which the individual resides or for the facility established
42 by New Horizons, Inc., as applicable; (C) the trust is funded solely
43 with the excess income described in subparagraph (B) of this
44 subdivision; and (D) the trust provides that the state will receive, after
45 repayment of Medicaid assistance paid to or on behalf of the
46 individual as set forth in Section 1917(d)(4) of the Social Security Act,
47 all amounts remaining in the trust upon the death of such individual
48 up to an amount equal to the total state supplemental assistance paid

49 on behalf of the individual under this section. Property which is
50 exempted from consideration in determining the financial eligibility of
51 an individual for benefits or assistance, such as a house in which the
52 individual resides, shall not be subject to the provisions of this section
53 regarding transfers of property if such property is disposed of while an
54 individual is receiving benefits or assistance under this section. The
55 program of optional state supplementation shall be administered in
56 accordance with regulations to be adopted by the Department of Social
57 Services, which regulations shall be consistent with the requirements
58 of Title XVI of the Social Security Act pertaining to programs of
59 optional state supplementation. Until such time as regulations are
60 adopted by the department governing the program of optional state
61 supplementation, the department is authorized to administer said
62 program in accordance with the regulations and departmental policy
63 manual provisions applicable to the aid to the elderly, aid to the blind
64 and aid to the disabled programs, which regulations and policy
65 manual provisions shall be fully applicable to the program of optional
66 state supplementation, except that in no event shall optional state
67 supplementation be given to persons who either are not recipients of
68 federal supplemental security income benefits or are not persons who,
69 except for income, would be eligible for supplemental security income
70 benefits.

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2009	17b-600
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HS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Social Services	GF - Savings	Significant	Significant

Municipal Impact: None

Explanation

This bill allows certain residents of residential care homes to establish special needs trusts in order to maintain eligibility in the Aged, Blind and Disabled programs. By retaining this eligibility, such residents may continue to reside in the boarding homes, thereby avoiding more costly nursing home placements. It is estimated that this will affect approximately 30 clients per year. Assuming that 25 of these clients would have required nursing home placement, the state would realize a net savings of approximately \$900,000 in FY 10 and \$1.2 million in FY 11.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Agency Budget Options' Public Hearing Testimony

OLR Bill Analysis**sSB 957*****AN ACT CONCERNING THE ELIGIBILITY OF PERSONS LIVING IN RESIDENTIAL CARE HOMES FOR STATE SUPPLEMENT ASSISTANCE.*****SUMMARY:**

In general, State Supplement Program applicants who transfer assets within 24 months before applying for assistance are presumed to have done so to qualify. Such transfers generally render the transferor ineligible for State Supplement for a period of time based on the value of the asset. But if the applicant can provide convincing evidence that the transfer was made for another reason, eligibility is not affected.

This bill adds a second exception by allowing transfers to “special needs trusts” by individuals who (1) are living in residential care homes (RCH) or New Horizons, Inc. (a facility for people with severe physical disabilities, located in Farmington) and (2) have available income that is above 300% of the maximum federal Supplemental Security Income (SSI) program benefit for an individual (\$2,022 per month in 2009) and below the private rate that the RCH or New Horizons charges. Currently, an individual whose income exceeds 300% of the SSI benefit cannot qualify for State Supplement benefits.

The bill does not explicitly provide that individuals can have the excess income they deposit into such trusts disregarded for purposes of State Supplement eligibility. So it appears that individuals who create these trusts could lose their eligibility on that basis.

The bill requires the trust to be funded solely with the individual's excess income. The trust must provide that, once the individual dies, the state will receive all amounts remaining in it after the Medicaid

program is reimbursed for Medicaid-funded services the individual received, up to the amount of State Supplement provided. The type of trust someone may establish is the same that federal law allows for purposes of Medicaid eligibility (42 USC § 1396p(d)(4)).

EFFECTIVE DATE: July 1, 2009

BACKGROUND

State Supplement

The State Supplement Program (SSP) provides cash assistance to aged, blind, and disabled individuals who are eligible for federal SSI benefits or who would be, but for excess income. To qualify, income cannot exceed 300% of the maximum SSI benefit, and assets are limited to \$1,600 for a single person and \$2,400 for a married couple.

The amount of the SSP benefit depends on the person's income and needs. Needs are based on the individual's living arrangement, with higher needs allowed for people residing in boarding homes (e.g., residential care homes) than for those living alone in the community. The amount of benefits paid is the difference between need and net income (income after certain deductions are taken).

Related Bill

sSB 843, favorably reported by the Human Services Committee, contains an identical provision.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/10/2009)